

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ERICH BEACH  
6713 S. Tumblecreek Dr.  
Franklin, WI 53132,

Case No. 2:12-cv-00778-JPS

Plaintiff,

v.

LVNV Funding LLC  
15 South Main Street  
Greenville, SC 29601

**DEFENDANT LVNV FUNDING,  
LLC'S ANSWER TO COMPLAINT**

WELTMAN, WEINBERG & REIS CO., LPA  
175 south 3<sup>rd</sup> St., Suite 900  
Columbus, OH 43215-5166,

Defendants.

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Defendant LVNV Funding LLC ("LVNV"), by its undersigned counsel, as and for its answer to plaintiff's Complaint, denies each and every allegation contained therein, unless otherwise admitted or qualified herein:

1. With respect to the allegations in Paragraph 1 of Plaintiff's Complaint, Defendant LVNV lacks knowledge or information sufficient to form a belief about the truth of the allegations.
2. Defendant LVNV denies the allegations in Paragraph 2 of Plaintiff's Complaint.
3. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 3 of Plaintiff's Complaint.

**JURISDICTION OF THE COURT AND VENUE**

1. In response to paragraph 1 of this section of Plaintiff's Complaint, Defendant LVNV admits that the referenced statutes confer jurisdiction upon this Honorable Court but LVNV denies that it violated any law to subject it to said jurisdiction.

2. In response to paragraph 2 of this section of Plaintiff's Complaint, Defendant LVNV admits that Plaintiff's Complaint has alleged violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. 1692 et seq., but LVNV denies that it violated the FDCPA or any law.

3. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 3 of this section of Plaintiff's Complaint.

### **FACTUAL BACKGROUND**

1. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 1 of this section of Plaintiff's Complaint.

2. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 2 of this section of Plaintiff's Complaint.

3. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 3 of this section of Plaintiff's Complaint.

4. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 4 of this section of Plaintiff's Complaint.

5. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 5 of this section of Plaintiff's Complaint..

6. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 6 of this section of Plaintiff's Complaint.

7. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 7 of this section of Plaintiff's Complaint.

8. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 8 of this section of Plaintiff's Complaint.

9. Defendant LVNV lacks knowledge sufficient to admit or deny the allegations in Paragraph 9 of this section of Plaintiff's Complaint.

10. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 10 of this section of Plaintiff's Complaint.

11. Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 11 of this section of Plaintiff's Complaint.

12. With respect to the allegations in Paragraph 12 of this section of Plaintiff's Complaint, Defendant LVNV states that Paragraph 12 states a legal conclusion to which no response is required. To the extent a response is required, LVNV denies the allegations and puts Plaintiff to the strict proof thereof. To all other extents, Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 12 of this section of Plaintiff's Complaint.

13. As and for itself, Defendant LVNV denies the allegations in Paragraph 13 of this section of Plaintiff's Complaint. To all other extents, Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 13 of this section of Plaintiff's Complaint.

#### **FIRST PENDENT CAUSE OF ACTION**

1. LVNV adopts by reference the responses to the preceding paragraphs of the Complaint as though fully set forth herein.

2. Defendant LVNV denies the allegations in Paragraph 2 of this section of Plaintiff's Complaint against it. To all other extents, Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 2 of this section of Plaintiff's Complaint.

3. Defendant LVNV denies the allegations in Paragraph 3 of this section of Plaintiff's Complaint against it. To all other extents, Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 3 of this section of Plaintiff's Complaint.

4. Defendant LVNV denies the allegations in Paragraph 4 of this section of Plaintiff's Complaint against it. To all other extents, Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 4 of this section of Plaintiff's Complaint. On information and belief, further, Defendant LVNV states that the Wisconsin Consumer Act does not provide for punitive damages.

#### **SECOND PENDENT CAUSE OF ACTION**

5. LVNV adopts by reference the responses to the preceding paragraphs of the Complaint as though fully set forth herein.

6. Defendant LVNV denies the allegations in Paragraph 6 of this section of Plaintiff's Complaint against it. To all other extents, Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 6 of this section of Plaintiff's Complaint.

7. Defendant LVNV denies the allegations in Paragraph 7 of this section of Plaintiff's Complaint against it. To all other extents, Defendant LVNV lacks knowledge

or information sufficient to admit or deny the allegations in Paragraph 7 of this section of Plaintiff's Complaint.

8. Defendant LVNV denies the allegations in Paragraph 8 of this section of Plaintiff's Complaint against it. To all other extents, Defendant LVNV lacks knowledge or information sufficient to admit or deny the allegations in Paragraph 8 of this section of Plaintiff's Complaint. On information and belief, further, Defendant LVNV states that the Wisconsin Consumer Act does not provide for punitive damages.

#### **AFFIRMATIVE DEFENSES**

As and for Defendant LVNV's affirmative defenses, LVNV interposes the following:

1. The Complaint fails to state a claim upon which relief may be granted;
2. Any violation of the FDCPA or the Wisconsin Consumer Act, which Defendant LVNV denies, was not intentional and resulted, if at all, from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid such errors, if applicable.
3. Any violation of the law or damage suffered by Plaintiff, which Defendant LVNV denies, was due to the affirmative actions and/or omissions of Plaintiff or others, and does not give rise to any liability of Defendant LVNV.

WHEREFORE, Defendant LVNV Funding LLC respectively requests the following relief from the above-named court:

1. Dismissing Plaintiff's Complaint with prejudice and on the merits; and
2. Granting Defendant LVNV Funding LLC such other and further relief as the court deems just and equitable.

MOSS & BARNETT  
A Professional Association

Dated: August 31, 2012

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LLC**